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ENGLISH

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FABRIENNE ENGLISH, On behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

APPLE INC., APPLECARE SERVICE
COMPANY, INC., and APPLE CSC INC.,

Defendants.

) Case No. 3:14-cv-01619-WHO

)
) **PLAINTIFF'S MOTION FOR LEAVE TO**
) **FILE A SUPPLEMENTAL MOTION TO**
) **SEAL AND DECLARATION, AND ALSO**
) **LEAVE TO FILE BATHENA DIXON'S**
) **CORRECTED DECLARATION, BRIAN**
) **DALRYMPLE'S DECLARATION (w/**
) **EXHIBITS), AND EX. L ISO OPPOSITION**
) **TO SUMMARY JUDGMENT**

) Hearing: December 14, 2016

) Time: 2:00 p.m.

) Judge: Hon. William H. Orrick

) Courtroom: 2, 17th Floor

) Complaint Filed: November 4, 2013

) Transfer to N.D. Cal.: April 3, 2014

) Trial Date: No Trial Date

1 Plaintiff FABRIENNE ENGLISH, by and through her attorneys, bring this Administrative Motion for
2 Leave to Supplement the Motion to Provisionally File Certain Documents Under Seal ECF 304. This
3 Administrative Motion is made pursuant to Civ. L.R. 7-11 and 79-5 and the Amended Stipulated
4 Protective Order ("Protective Order") entered in this case Docket No. 127.

5 This Application is based on the following:

6 1. On January 27, 2015, the Court in the Northern District of California signed and entered
7 the Amended Stipulated Protective Order at Docket No. 127.

8 2. Plaintiff seeks to seal the documents referenced in the Declaration of Renee Kennedy in
9 Support of Plaintiffs' Administrative Motion to File Certain Documents Under Seal ("Kennedy Decl.")
10 filed herewith.

11 3. Plaintiff takes no position that the documents and pleadings referenced in the Kennedy
12 Decl. in support of this Provisional Administrative Motion ought to be unsealed or remain unsealed at
13 this time.

14 4. The documents identified in the Kennedy Declaration in support of this Administrative
15 motion include documents produced in discovery and deposition transcripts that have been marked as
16 confidential or highly confidential by Apple, or are currently under seal in the Northern District of
17 California, or may be ones that the Court may Order be sealed.

18 5. The Exhibits to the Declaration of Renee Kennedy in Support of the Supplemental
19 Motion to Seal and Declaration, and Also Leave to File Bathena Dixon's Corrected Declaration, Brian
20 Dalrymple's Declaration with Exhibits, and Ex. L ISO Opposition to Summary Judgment.

21 6. Plaintiff's Supplemental Provisional Administrative Motion to File Certain Documents
22 Under Seal include the following:

- 23 a) Exhibit A -- Bathena Dixon's Declaration
- 24 b) Exhibit B -- Call Logs [ECF 304-6, 304-7, and 304-8]
- 25 c) Exhibit L -- Excerpts from Morrison's Declaration
- 26 d) Exhibit Q -- training materials [ECF 304-20]
- 27 e) Decl. of Kennedy [ECF 304-4]
- 28

7. Plaintiff's served Defendants with Bathena Dixon's corrected and signed Declaration on October 30, 2016 on November 1, 2016. It is necessary to correct the Declaration that was filed, ECF 304-16 Ex. M. Plaintiff, through Kennedy's Decl. ISO Opposition ECF 304-4 cited the correction. There is protocol listed in the Declaration as well. The reason it was not uploaded is because Plaintiff was having difficulty obtaining the signature through DocuSign. The transaction showed completed on October 28, 2016 per DocuSign's own documentation (Ex. B), but yet there was no signature. Ms. Dixon did not have an alternate method of conveying the information. I believe that Ms. Dixon thought that I had sent another Declaration when it was still the same one¹, and Ms. Dixon could not view it on her phone and wanted to read it before signing it. I received her email with the attachment just after midnight², but it was still not signed although it seems that she indicated that it was. (Ex. B) Kennedy opened up a new DocuSign account and was able to receive the signed Declaration on or about October 30, 2016. Defendants are opposed to this submission.

8. Plaintiff's notified Defendants about Brian Dalrymple's upcoming Declaration and served them with his CV (Ex. E) and fingerprint fact sheet (Ex. F) on October 30, 2016. Brian Dalrymple's expert report was signed on October 30, 2016, and should the Court want proof and grant leave to Renee Kennedy, she can provide the certificate showing same. Defendants received his final signed report on November 1, 2016. Defendants are opposed to this submission.

9. Defendants agree to the submission of Ex. L, however, due to an uploading issue with the ECF system.

10. The Declaration ECF 304-1 incorrectly states that Plaintiff is opposed to provisional sealing. Had Kennedy's computers not crashed on the eve of filing, the correct Declaration that had been pre-drafted and lay on her frozen, zombie, locked out computer, rather than the one drafted and submitted on the fly with only minutes to filing, stated that Plaintiff took no position at this time on the provisional Sealing requests.

For the reasons discussed above, Plaintiff respectfully requests that the documents identified above and attached or referenced in the Kennedy Declaration filed with this Motion that Plaintiff has specifically requested be sealed (**as not all Exhibits were requested to be sealed**), be filed provisionally

¹ Kennedy is trying to confirm with her what exactly happened but have not been able to reach her.

² But shows in the email as 2:03 am because Kennedy is in the Central Time Zone. (Ex. B)

1 under seal to give Defendants and their counsel time to review them. Further, as to the Declaration ISO
2 of this Motion concerning the additional Exhibits that Plaintiff is *not* requesting to be sealed but
3 submitted ISO Opposition as well as Bathena Dixon's corrected declaration, Brian Dalrymple's
4 declaration with exhibits, and Ex L (Morrison's excerpts), Plaintiff seeks leave to be allowed to submit
5 and file them in support of Plaintiff's Opposition to Summary Judgment [ECF 304 and 305].

6 Dated: November 2, 2016

Respectfully submitted,

7 By: s/ Renee Kennedy
8 Renee Kennedy
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